



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

plaintiff by confession set aside, and judgment rendered for plaintiff on summons served, and defendant brings error. Order setting aside judgment by confession annulled, and judgment rendered on service of summons. Reversed.

B. A. Lewis, of Lawrenceville, for plaintiff in error.

Geo. M. Raney and *Buford & Peterson*, all of Lawrenceville, for defendant in error.

STALLARD *v.* COMMONWEALTH.

June 28, 1921.

[107 S. E. 722.]

1. Burglary (§ 42 (3)*)—Evidence Held Sufficient to Warrant a Conviction.—In a prosecution for feloniously entering a barn and stealing property therefrom, evidence of finding the stolen property near defendant's house, together with other proof, held sufficient to warrant a conviction.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 661.]

2. Criminal Law (§ 1159 (3)*)—Verdict on Conflicting Evidence Not Disturbed.—A conviction based on conflicting evidence will not be disturbed by the appellate court.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620.]

3. Burglary (§ 42 (1)*)—Larceny (§ 64 (1)*)—Possession of Stolen Goods Not Prima Facie Evidence of Housebreaking or Larceny.—The possession of stolen goods is of itself not even prima facie evidence of housebreaking or larceny.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 661.]

4. Burglary (§ 64 (6)*)—Possession of Stolen Goods with Inculpatory Circumstances May Establish Crime.—When goods have been obtained by means of a burglary or housebreaking, the fact of possession by the defendant, together with inculpatory circumstances, such as the refusal of defendant to give an account of his possession, or his giving of a false account, is sufficient to warrant conviction.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 661.]

5. Indictment and Information (§ 191 (2)*)—In Prosecution for Entering a Barn and Stealing Property, Jury May Convict of Larceny.—In a prosecution for entering a barn and stealing property therefrom, the jury may convict of larceny alone; larceny being necessarily involved.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 794.]

6. Burglary (§ 46 (7)*)—Instruction on Recent Possession Not Erroneous.—In a prosecution for entering a barn and stealing prop-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

erty therefrom, an instruction that, if the jury believed that a saddle and bridle owned by the prosecuting witness were stolen and were recently thereafter found in the exclusive possession of the defendant, then such possession of itself affords sufficient ground for a presumption that he was the thief, and makes it incumbent for him to account for such possession consistently with his innocence, while not framed in the usual manner, because omitting the qualification that the possession should be unexplained, was proper in view of the concluding clause.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 661.]

7. Burglary (§ 42 (1)*)—Criminal Law (§ 1172 (2)*)—Instruction that Possession of Stolen Goods Two Months after Theft Was Recent Possession Held Erroneous, but Harmless.—In a prosecution for entering and stealing property from a barn, where the stolen property was found in possession of defendant less than a month after the event, an instruction on recent possession which stated that the exclusive possession by a person of property two months after being stolen is recent possession was erroneous, but not prejudicial; the possession of defendant undoubtedly being recent.

Error to Circuit Court, Scott County.

George Stallard, alias Charles G. Cox, was convicted of feloniously entering a barn and stealing property therein, and he brings error. Affirmed.

W. S. Cox, of Gate City, for plaintiff in error.

John R. Saunders, Atty. Gen., and *J. D. Hank, Jr.*, and *Leon M. Bazile*, Asst. Attys. Gen., for the Commonwealth.